

**STORAGE NAME:** h0655.jo.doc  
**DATE:** March 5, 2001

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
JUDICIAL OVERSIGHT  
ANALYSIS**

**BILL #:** HJR 655  
**RELATING TO:** Election of Supreme Court Justices  
**SPONSOR(S):** Representative Baker  
**TIED BILL(S):** None

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) JUDICIAL OVERSIGHT
  - (2) RULES, ETHICS, & ELECTIONS
  - (3) PROCEDURAL & REDISTRICTING COUNCIL
  - (4)
  - (5)
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I. SUMMARY:

The joint resolution amends Article V of the Florida Constitution to provide for a statewide election of supreme court justices. Justices will be elected to an eight year term. Once elected to a term as justice, the justice may not be elected again or be appointed to fill any vacancy on the court. If a vacancy occurs on the court, the Governor shall appoint a replacement from a list submitted by the judicial nominating commission to complete the term. The joint resolution eliminates merit selection and retention of justices.

The joint resolution, if approved by the voters, will take effect January 7, 2003. Each justice in office on January 7, 2003 will be permitted to complete his or her term.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. PRESENT SITUATION:

Throughout its history, Florida has selected justices for the Supreme Court in different ways. Currently, justices are selected by what is commonly referred to as “merit selection and retention.” Justices are selected by the Governor from a list of three to six names provided by the Supreme Court Judicial Nominating Commission. See Art. V, s. 11, Fla. Const. Justices serve six year terms. See Art. V, s. 10, Fla. Const. At the end of a term, a justice sits for a retention election. A question is placed on the ballot asking whether the justice should be retained in office. If a majority of voters vote “yes”, the justice is retained. If a majority votes “no”, the justice is removed. See Art. V, s. 10, Fla. Const. No justice has ever been removed from office under this system. A justice may stay on the court for as long as he or she is retained or until the justice reaches his or her seventieth birthday.<sup>1</sup> See Art. V, s. 8, Fla. Const.

In 1851, the Legislature established the Supreme Court and appointed the justices.<sup>2</sup> The 1865 Florida Constitution provided that justices would be selected by the Governor with the advice and consent of the Senate.<sup>3</sup> The Florida Constitution of 1885 changed the method of selection from appointment to direct election by the people.<sup>4</sup> In 1976, the Florida Constitution was amended to create the current merit selection and retention method of selecting justices.

Each appellate district must have at least one justice appointed from the district to the supreme court who is a resident of the district at the time of the original appointment. See Art. V, s. 3, Fla. Const.

C. EFFECT OF PROPOSED CHANGES:

The joint resolution amends Article V to provide for statewide election of supreme court justices. Justices will be elected to an eight year term. Once elected to a term as justice, the justice may not be elected again or be appointed to fill any vacancy on the court. If a vacancy occurs on the court, the Governor shall appoint a replacement from a list submitted by the judicial nominating

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<sup>1</sup> A justice who turns seventy after serving one half of a term is permitted to complete the term.

<sup>2</sup> Act of 1850, §1, 1850 Fla. Laws 371

<sup>3</sup> Florida Constitution of 1865, Article V, s. 10

<sup>4</sup> Florida Constitution of 1885, Article V, s. 2

commission to complete the term. The joint resolution removes the requirement that one supreme court justice be a resident of each appellate district at the time of appointment.

The joint resolution eliminates merit selection and retention of Florida Supreme Court justices.

The joint resolution, if approved by the voters, will take effect January 7, 2003. Each justice in office on January 7, 2003 will be permitted to complete his or her term.

The joint resolution does not change the selection process for judges on the district courts of appeal, the circuit courts, and the county courts.

D. SECTION-BY-SECTION ANALYSIS:

See Section II.C. Effect of Proposed Changes

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

The fiscal impact is indeterminate. The joint resolution will lead to contested elections for seats on the Supreme Court of Florida and there will be costs associated with election campaigns.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

A mandates analysis is unnecessary to an analysis of a proposed constitutional amendment.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

A mandates analysis is unnecessary to an analysis of a proposed constitutional amendment.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

A mandates analysis is unnecessary to an analysis of a proposed constitutional amendment.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

Article XI, section 1 of the Florida Constitution provides that a constitutional amendment may be proposed by joint resolution of the Legislature. Final passage in the House and Senate requires a three-fifths vote in each house; passage in a committee requires a simple majority vote. If the joint resolution is passed in this session, Article XI, section 5 of the Florida Constitution provides that the proposed amendment would be placed before the electorate at the 2002 general election. Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, must be published in one newspaper of general circulation in each county in which a newspaper is published. If the proposed amendment or revision is approved by vote of the electors, it will be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election.

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON JUDICIAL OVERSIGHT:

Prepared by:

Staff Director:

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L. Michael Billmeier

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